

**59-7-102 (Effective 09/02/14). Exemptions.**

(1) Except as provided in this section, the following are exempt from a tax under this chapter:

- (a) an organization exempt under Section 501, Internal Revenue Code;
- (b) an organization exempt under Section 528, Internal Revenue Code;
- (c) an insurance company that is subject to taxation on the insurance company's premiums under Chapter 9, Taxation of Admitted Insurers;
- (d) a local building authority as defined in Section 17D-2-102;
- (e) a farmers' cooperative; or
- (f) a public agency, as defined in Section 11-13-103, with respect to or as a result of an ownership interest in:
  - (i) a project, as defined in Section 11-13-103; or
  - (ii) facilities providing additional project capacity, as defined in Section 11-13-103.

(2) A corporation is exempt from a tax under this chapter:

- (a) if the corporation is an out-of-state business as defined in Section 53-2a-1202; and
- (b) for income earned:
  - (i) during a disaster period as defined in Section 53-2a-1202; and
  - (ii) for the purpose of responding to a declared state disaster or emergency as defined in Section 53-2a-1202.

(3) Notwithstanding any other provision in this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, a person not otherwise subject to the tax imposed by this chapter or Chapter 8 is not subject to a tax imposed by Section 59-7-104, 59-7-201, 59-7-701, or 59-8-104, because of:

- (a) that person's ownership of tangible personal property located at the premises of a printer's facility in this state with which the person has contracted for printing; or
- (b) the activities of the person's employees or agents who are:
  - (i) located solely at the premises of a printer's facility; and
  - (ii) performing services:
    - (A) related to:
      - (I) quality control;
      - (II) distribution; or
      - (III) printing services; and
    - (B) performed by the printer's facility in this state with which the person has contracted for printing.

(4) Notwithstanding Subsection (1), an organization, company, authority, farmers' cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part 8, Unrelated Business Income, to the extent provided in Part 8.

(5) Notwithstanding Subsection (1)(b), to the extent the income of an organization described in Subsection (1)(b) is taxable for federal tax purposes under Section 528, Internal Revenue Code, the organization's income is also taxable under this chapter.

Amended by Chapter 376, 2014 General Session  
Amended by Chapter 435, 2014 General Session

**59-7-302 (Effective 01/01/15). Definitions -- Determination of when a taxpayer is considered to be a sales factor weighted taxpayer.**

- (1) As used in this part, unless the context otherwise requires:
  - (a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.
  - (b) "Airline" is as defined in Section 59-2-102.
  - (c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.
  - (d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.
  - (e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.
  - (f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.
  - (g) (i) Except as provided in Subsection (1)(g)(ii), "mobile flight equipment" is as defined in Section 59-2-102.
  - (ii) "Mobile flight equipment" does not include:
    - (A) a spare engine; or
    - (B) tangible personal property described in Subsection 59-2-102(26) owned by an:
      - (I) air charter service; or
      - (II) air contract service.
  - (h) "Nonbusiness income" means all income other than business income.
  - (i) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.
  - (j) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.
  - (k) Subject to Subsection (2), "sales factor weighted taxpayer" means:
    - (i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:
      - (A) a NAICS code within NAICS Sector 21, Mining;
      - (B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;
      - (C) a NAICS code within NAICS Sector 31-33, Manufacturing;
      - (D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;
      - (E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

(F) a NAICS code within NAICS Sector 52, Finance and Insurance; or

(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

- (A) a NAICS code within NAICS Sector 21, Mining;
- (B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;
- (C) a NAICS code within NAICS Sector 31-33, Manufacturing;
- (D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;
- (E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or
- (F) a NAICS code within NAICS Sector 52, Finance and Insurance.

(I) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(m) "Transportation revenue" means revenue an airline earns from:

- (i) transporting a passenger or cargo; or
- (ii) from miscellaneous sales of merchandise as part of providing transportation services.

(n) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

- (i) during the airline's tax period; and
- (ii) from flight stages that originate or terminate in this state.

(2) The following apply to Subsection (1)(k):

- (a) (i) Subject to the other provisions of this Subsection (2), a taxpayer shall for each taxable year determine whether the taxpayer is a sales factor weighted taxpayer.
- (ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.
- (iii) For purposes of making the determination required by Subsection (2)(a)(i), total sales everywhere include only the total sales everywhere:
  - (A) as determined in accordance with this part; and
  - (B) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a)(i).
- (b) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

Amended by Chapter 65, 2014 General Session  
 Amended by Chapter 398, 2014 General Session

**59-7-605 (Effective 01/01/15). Definitions -- Tax credits related to energy efficient vehicles.**

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(c) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

(f) "OEM vehicle" has the same meaning as in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by electricity only; and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(iii).

(i) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas or propane;

(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol.

(j) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the

installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) "Special mobile equipment":

(i) means any mobile equipment or vehicle that is not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For the taxable year beginning on or after January 1, 2015, but beginning on or before December 31, 2015, a taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

(a) (i) for the original purchase of a new qualifying electric vehicle that is registered in this state, the lesser of:

(A) \$1,500; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) \$1,500; or

(ii) 35% of the purchase price of the vehicle;

(c) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,500 per motor vehicle, if the motor vehicle is to:

(i) be fueled by propane, natural gas, or electricity;

(ii) be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

(iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

(d) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed; and

(e) for a lease of a vehicle described in Subsection (2)(a) or (b), an amount equal to the product of:

(i) the amount of tax credit the taxpayer would otherwise qualify to claim under Subsection (2)(a) or (b) had the taxpayer purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B) or (2)(b)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(e)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a taxpayer is allowed under this section; and

(ii) provide the taxpayer with a written certification of the amount of tax credit the taxpayer is allowed under this section.

(b) A taxpayer shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:

(i) providing proof to the board in the form the board requires by rule;

(ii) receiving a written statement from the board acknowledging receipt of the proof; and

(iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the taxpayer;

(b) for the taxable year in which a vehicle described in Subsection (2)(a) or (b) is purchased, a vehicle described in Subsection (2)(e) is leased, or conversion equipment described in Subsection (2)(c) or (d) is installed; and

(c) once per vehicle.

(5) A taxpayer may not assign a tax credit under this section to another person.

(6) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(7) In accordance with any rules prescribed by the commission under Subsection (8), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (7).

Amended by Chapter 125, 2014 General Session

**59-7-614 (Effective 01/01/15). Renewable energy systems tax credit -- Definitions -- Limitations -- Certification -- Rulemaking authority.**

(1) As used in this section:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, geothermal electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure that a business entity uses to transact its business.

(ii) Notwithstanding Subsection (1)(f)(i):

(A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure that a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Direct-use geothermal system" means a system of apparatus and equipment enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth to meet energy needs, including heating a building, an industrial process, and aquaculture.

(h) "Geothermal electricity" means energy contained in heat that continuously flows outward from the earth that is used as a sole source of energy to produce electricity.

(i) "Geothermal heat-pump system" means a system of apparatus and equipment enabling the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit to help meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and an individual as defined in Section 59-10-103.

(l) "Office" means the Office of Energy Development created in Section 63M-4-401.

(m) "Passive solar system":

(i) means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(n) "Residential energy system" means any active solar, passive solar, biomass, direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to supply energy to or for any residential unit.

(o) "Residential unit" means any house, condominium, apartment, or similar dwelling unit that serves as a dwelling for a person, group of persons, or a family but does not include property subject to a fee under:

(i) Section 59-2-404;

(ii) Section 59-2-405;

(iii) Section 59-2-405.1;

(iv) Section 59-2-405.2; or

(v) Section 59-2-405.3.

(p) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) (a) (i) A business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and located in the state may claim a nonrefundable tax credit as provided in this Subsection (2)(a).

(ii) (A) The tax credit is equal to 25% of the reasonable costs of each residential



energy system installed with respect to each residential unit the business entity owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(B) The total amount of each tax credit under this Subsection (2)(a) may not exceed \$2,000 per residential unit.

(C) The tax credit under this Subsection (2)(a) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.

(iii) If a business entity sells a residential unit to an individual taxpayer before making a claim for the tax credit under this Subsection (2)(a), the business entity may:

(A) assign its right to this tax credit to the individual taxpayer; and

(B) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual taxpayer had completed or participated in the costs of the residential energy system under Section 59-10-1014.

(b) (i) A business entity that purchases or participates in the financing of a commercial energy system situated in Utah may claim a refundable tax credit as provided in this Subsection (2)(b) if the commercial energy system does not use wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity or if the commercial energy system does not use solar equipment capable of producing 2,000 or more kilowatts of electricity, and:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.

(B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the tax credit under this Subsection (2)(b) may not exceed \$50,000 per commercial unit.

(C) The tax credit under this Subsection (2)(b) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can confirm that the lessor irrevocably elects not to claim the tax credit.

(iv) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

(v) A business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (2)(b) for a period no greater than seven years from the initiation of the lease.

(vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or carried back.

(c) (i) A business entity that owns a commercial energy system located in the state using wind, geothermal electricity, or biomass equipment capable of producing a

total of 660 or more kilowatts of electricity may claim a refundable tax credit as provided in this Subsection (2)(c) if:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity may claim a tax credit under this section equal to the product of:

(I) 0.35 cents; and

(II) the kilowatt hours of electricity produced and either used or sold during the taxable year.

(B) (I) The tax credit calculated under Subsection (2)(c)(ii)(A) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(II) The tax credit allowed by this Subsection (2)(c) for each year may not be carried forward or carried back.

(C) The tax credit under this Subsection (2)(c) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can confirm that the lessor irrevocably elects not to claim the tax credit.

(d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year in which the energy system is completed and placed in service.

(ii) Additional energy systems or parts of energy systems may be claimed for subsequent years.

(iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.

(3) (a) A business entity that owns a commercial energy system located in the state that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity may claim a refundable tax credit as provided in this Subsection (3) if:

(i) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise; and

(ii) the business entity does not claim a tax credit under Subsection (2)(b).

(b) A business entity may claim a tax credit under this section equal to the product of:

(i) 0.35 cents; and

(ii) the kilowatt hours of electricity produced and either used or sold during the taxable year.

(c) The tax credit under this Subsection (3) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(d) The tax credit under this Subsection (3) may not be carried forward or

carried back.

(e) The tax credit under this Subsection (3) is allowed for a commercial energy system completed and placed in service on or after January 1, 2015.

(f) A business entity that leases a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the business entity that is the lessee can confirm that the lessor irrevocably elects not to claim the tax credit.

(4) (a) Except as provided in Subsection (4)(b), the tax credits provided for under Subsection (2) or (3) are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(b) A purchaser of one or more solar units that claims a tax credit under Section 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(c) (i) The office may set standards for residential and commercial energy systems claiming a tax credit under Subsections (2)(a) and (b) that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(ii) The office may set standards for residential and commercial energy systems that establish the reasonable costs of an energy system, as used in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.

(iii) A tax credit may not be taken under Subsection (2) or (3) until the office has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(d) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

(5) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (5)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.

Amended by Chapter 407, 2014 General Session

**59-7-616 (Effective 01/01/15). Refundable tax credit for certain business entities.**

(1) As used in this section:

(a) "Office" means the Governor's Office of Economic Development.

(b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.

(c) "Pass-through entity taxpayer" has the same meaning as defined in Section 59-10-1402.

(d) "Tax credit certificate" has the same meaning as defined in Section

63M-1-3402.

(e) "Tax credit recipient" has the same meaning as defined in Section 63M-1-3402.

(2) (a) Subject to the other provisions of this section, a tax credit recipient that is a corporation may claim a refundable tax credit as provided in Subsection (3).

(b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a refundable tax credit that the tax credit recipient could otherwise claim under this section.

(3) The amount of a tax credit is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the tax credit recipient for the taxable year.

(4) A tax credit recipient:

(a) may claim or pass through a tax credit in a taxable year other than the taxable year during which the tax credit recipient has been issued a tax credit certificate; and

(b) may not claim a tax credit under both this section and Section 59-10-1110.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall:

(i) make a refund to a tax credit recipient that claims a tax credit under this section if the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a tax credit recipient or pass-through entity taxpayer as required by Subsection (5)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (5)(a)(ii).

Enacted by Chapter 429, 2014 General Session

**59-7-617 (Effective 01/01/15). Nonrefundable tax credit for employment of a person who is homeless.**

(1) As used in this section:

(a) "Eligible employer" means a person who receives a tax credit certificate from the Department of Workforce Services in accordance with Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.

(b) "Person who is homeless" is as defined in Section 35A-5-302.

(2) Subject to the other provisions of this section, an eligible employer that is a corporation may claim a nonrefundable tax credit as provided in this section against a tax under this chapter.

(3) The tax credit under this section is the amount of tax credit listed on a tax credit certificate that the Department of Workforce Services issues to an employer for a

taxable year under Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.

(4) An eligible employer may carry forward a tax credit under this section for a period that does not exceed the next five taxable years if:

(a) the eligible employer is allowed to claim a tax credit under this section; and  
(b) the amount of the tax credit exceeds the eligible employer's tax liability under this chapter for that taxable year.

(5) An eligible employer shall retain a tax credit certificate the eligible employer receives from the Department of Workforce Services for the same time period a person is required to keep books and records under Section 59-1-1406.

Enacted by Chapter 315, 2014 General Session

**59-7-901 (Effective 01/01/15). Title.**

This part is known as the "Tax Credit Administration Act."

Enacted by Chapter 315, 2014 General Session

**59-7-902 (Effective 01/01/15). Definitions.**

As used in this part:

- (1) "Tax credit" means a nonrefundable tax credit listed on a tax return.  
(2) "Tax return" means:  
(a) a corporate return as defined in Section 59-7-101 filed in accordance with this chapter; or  
(b) a tax return filed in accordance with Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act.

Enacted by Chapter 315, 2014 General Session

**59-7-903 (Effective 01/01/15). Removal of tax credit from tax return -- Prohibition on claiming or carrying forward a tax credit -- Commission reporting requirements.**

(1) Subject to Subsection (2), the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim or carry forward the tax credit if:

(a) the total amount of tax credit claimed or carried forward by all persons who file a tax return is less than \$10,000 per taxable year for three consecutive taxable years; and

(b) less than 10 persons per year for the three consecutive taxable years described in Subsection (1)(a) file a tax return claiming or carrying forward the tax credit.

(2) If the commission determines the requirements of Subsection (1) are met, the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim or carry forward the tax credit beginning two taxable years after the January 1 immediately following the date the commission determines the requirements of Subsection (1) are met.

(3) The commission shall, on or before the November interim meeting of the

year after the taxable year in which the commission determines the requirements of Subsection (1) are met:

(a) report to the Revenue and Taxation Interim Committee that, in accordance with this section:

(i) the commission is required to remove a tax credit from a return on which the tax credit appears; and

(ii) a person filing a tax return may not claim or carry forward the tax credit; and

(b) notify each state agency required by statute to assist in the administration of the tax credit that, in accordance with this section:

(i) the commission is required to remove a tax credit from a return on which the tax credit appears; and

(ii) a person filing a tax return may not claim or carry forward the tax credit.

Enacted by Chapter 315, 2014 General Session